

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CRIMINAL APPLICATION No 204 of 1998

For Approval and Signature:

Hon'ble MR.JUSTICE A.K.TRIVEDI

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1. Whether Reporters of Local Papers may be allowed to see the judgements?
2. To be referred to the Reporter or not?
3. Whether Their Lordships wish to see the fair copy of the judgement?
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder?
5. Whether it is to be circulated to the Civil Judge?

DILIPKUMAR B CHAUDHARI

Versus

DISTRICT SUPERINTENDENT OF POLICE

Appearance:

MS KUSUM M SHAH for Petitioner

MR PK JANI for Respondent No. 2

CORAM : MR.JUSTICE A.K.TRIVEDI

Date of decision: 23/03/98

ORAL JUDGEMENT

Heard learned Advocate Ms. Kusum M. Shah appearing for the petitioner, Mr. P.K. Jani, learned Advocate appearing for the respondent no.2 and Mr. A.J. Desai, learned A.P.P. appearing for the respondents nos.1 and 3.

It may be noted that vide earlier order dated

12th March,1998 urgent show cause notice was issued and respondent no.1 was directed to maintain status quo of the disputed land as prevalent at the time of service of the order of subject land; that the respondent no.1 was directed to arrange to draw a Panchnama in the presence of representatives of the parties and to produce the same; that on the returnable date, copy of Panchnama dated 15th March, 1998 is produced on record. The respondent no.1 has appeared and has filed affidavit also; that a Civil litigation in respect to subject matter between the petitioner and the respondent no.2 is pending in the District Court in the form of an appeal against the judgment and decree passed by the trial Court; that the Appellate Court has directed the present petitioner as well as the respondent no.2 to maintain status quo.

In view of the above referred to facts and in view of the fact that apprehension shown by the present petitioner that the respondent no.2 is likely to dispossess the petitioner with the help of police protection given by the respondent no.1, does not survive as period granted for police protection expires today and on the said fact, learned Advocate appearing for the petitioner has fairly stated at the Bar that the prayer made in the petition has now become infructuous and permission be granted to withdraw the petition. However, on behalf of the respondent no.2 it has been contended that in view of the peculiar facts as averred in the affidavits, the petitioner be ordered to pay the costs.

In the facts and circumstances of the present case, it is ordered that the present petition stands disposed of as rejected on account of being infructuous. Notice issued to the parties stand discharged. The petitioner is directed to deposit Rs.500/-(Rupees five hundred) within two weeks from today towards the cost to be paid to the Legal Aid Committee, High Court of Gujarat,Ahmedabad. The respondent no.1 is directed to carry out further investigation in respect to proceedings filed by either of the parties pertaining to subject matter of the present petition without being influenced by the contentions raised by the parties in the present proceedings. Interim relief granted earlier stands vacated. Copy of this order be given to the learned Advocate for the petitioner.

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